

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

HEATHER WYATT, as Administratrix of
the Estate of Aubreigh Wyatt and HEATHER
WYATT, INDIVIDUALLY AND AS PARENT/
GUARDIAN OF AUBREIGH WYATT

PLAINTIFF

VS

CAUSE NO: 1:25-cv-00098-TBM-RPM

OCEAN SPRINGS SCHOOL DISTRICT, OCEAN
SPRINGS BOARD OF TRUSTEES, OCEAN
SPRINGS SCHOOL DISTRICT SUPERINTENDENT;
OCEAN SPRINGS UPPER ELEMENTARY: TEACHERS
A-Z, LUNCH AIDES A-Z, SCHOOL NURSES A-Z,
LIBRARIANS A-Z, JOHN DOES 1-20; SCHOOL
COUNSELORS A-Z, SCHOOL ADMINISTRATORS A-Z,
And OCEAN SPRINGS MIDDLE SCHOOL: TEACHERS
A-Z, LUNCH AIDES A-Z, SCHOOL NURSES A-Z,
LIBRARIANS A-Z, JOHN DOES 1-20; SCHOOL
COUNSELORS A-Z, SCHOOL ADMINISTRATORS A-Z,

DEFENDANTS

MOTION TO DISMISS COMPLAINT

Comes Now Ocean Springs School District, Ocean Springs Board of Trustees, and Ocean Springs School District Superintendent (“the School District”) and files this, its Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In furtherance thereof, the School District states:

1. Plaintiff’s complaint fails to state a claim upon which relief may be granted for several reasons.

2. The Board of Trustees, the office of Superintendent and school buildings themselves are not jural bodies of independent legal existence; they are servient entities of the School District, and therefore, as a matter of law, they may not be sued. Further, as the School District has been named a defendant, attempts to sue officials or official offices is a redundancy, also requiring

dismissal.

3. Similarly, Title IX does not permit or authorize either suit or liability against individuals. In the event Plaintiff meant to sue individuals, such claims are barred by law and any amendment to include such is futile.

4. All claims which purport to be asserted on behalf of the estate of Aubreigh Wyatt must be dismissed as no such estate exists, a defect which cannot be waived or cured.

5. All claims which purport to be asserted by Aubreigh Wyatt by and through her mother, Heather Wyatt, must be dismissed as a matter of law as Aubreigh Wyatt predeceased the filing of the complaint, a defect which cannot be waived or cured.

6. All claims of bullying purportedly brought pursuant to federal law under Title IX must be dismissed as that federal statute does not, as a matter of law, confer a right of action for bullying.

7. The Title IX claim purportedly relevant to a claim of sexual assault must be dismissed for failing to meet the mandatory pleading requirements.

8. Any and all claims related to the suicide of Aubreigh Wyatt brought pursuant to Mississippi law must be dismissed as they are barred by law and/or fail to meet the mandatory minimum pleading requirements.

9. For these reasons, as discussed and supported by legal authority in contemporaneously filed briefing, the complaint fails to state a claim upon which relief may be granted and it must, respectfully, be dismissed.

Respectfully submitted, this the 21st day of April, 2025.

OCEAN SPRINGS SCHOOL DISTRICT,
OCEAN SPRINGS BOARD OF TRUSTEES,
OCEAN SPRINGS SCHOOL DISTRICT
SUPERINTENDENT

BY: Allison P. Fry
ALLISON P. FRY, MSB 100725

CERTIFICATE OF SERVICE

I, Allison P. Fry, do hereby certify that I have this day caused to be served a true and correct copy of the foregoing document to Heather Wyatt, via USPS to:

Heather Wyatt
3816 Timberlake Drive
Ocean Springs, MS 39564

Out of an abundance of caution, service of the forgoing has also been effected upon Kimberly Papania, Esq., via electronic mail to kpapanialaw@outlook.com and kpapania1@gmail.com.

Allison P. Fry
ALLISON P. FRY, MSB 100725